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NEBRASKA HEALTH AND HUMAN SERVICES  
REGULATION AND LICENSURE

172 NAC 67

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 67 FUNERAL DIRECTING AND EMBALMING

INDEX

<u>SUBJECT</u>	<u>CODE SECTION</u>	<u>PAGE</u>
Scope and Authority	67-001	1
Definitions	67-002	1
License Requirements	67-003	4
Apprenticeship Requirements	67-004	9
Examination Eligibility	67-005	13
Examination Procedures	67-006	13
Renewal	67-007	14
Continuing Competency Requirements	67-008	18
Revocation for Failure to Meet Renewal Requirements	67-009	23
Re-Credentialing	67-010	24
Grounds for Denying, Refusing Renewal or Disciplining a Licensee	67-011	40
Unprofessional Conduct	67-012	43
Fees	67-013	43
Administrative Penalty	67-014	45
Applications	Available Upon Request	

TITLE 172 PROFESSIONAL AND OCCUPATIONAL LICENSURE

CHAPTER 67 FUNERAL DIRECTING AND EMBALMING

67-001 SCOPE AND AUTHORITY: These regulations apply to licensure of Funeral Directors and Embalmers as defined by Neb. Rev. Stat. §§ 71-1301 to 71-1306 and §§71-1326 to 71-1354 and the Uniform Licensing Law.

67-002 DEFINITIONS:

Accredited School of Mortuary Science means a school of the same type as those rated Class A by the Conference of Funeral Service Examining Boards of the United States, Inc., approved by the Department upon recommendation of the Board.

Act means Neb. Rev. Stat. §§ 71-1301 to 71-1306 and §§71-1326 to 71-1354, commonly known as the Practice of Funeral Directing and Embalming.

Apprentice means a person registered with the Department as an apprentice who is completing a twelve-month apprenticeship under the supervision of a licensed Funeral Director and Embalmer practicing in the State of Nebraska. The licensed Funeral Director and Embalmer is responsible for all funeral assists and embalmings completed by the apprentice.

Attest/Attestation means that the individual declares that all statements on the application/petition are true and complete.

Board means the Board of Funeral Directing and Embalming.

Branch Establishment means a place of business situated at a specific street address or location which is a subsidiary of a licensed funeral establishment, which contains a casket display room, a viewing area, or an area for conducting funeral services, or all of them, and where any portion of the funeral service or arrangements for the disposition of a dead human body is conducted.

Casket means a receptacle for a dead human body and does not include vaults, lawn crypts, mausoleums, or other outside receptacles for caskets.

Completed Application means an application with all of the information requested, the signature of the applicant, fees, and all required documentation submitted.

Continuing Competency means to ensure:

1. The maintenance by a credentialed person of knowledge and skills necessary to competently practice funeral directing and embalming,
2. The utilization of new techniques based on scientific and clinical advances, and
3. The promotion of research to assure expansive and comprehensive services to

the public. It is the competency required as a condition of licensure renewal, pursuant to Neb. Rev. Stat. Section § 71-1354.

Continuing Competency may be obtained through the following activities:

1. Academic Coursework;
2. Home Study;
3. Jurisprudence Examination;
4. Tours;
5. District/State/National Business Meetings;
6. Exhibits; and/or
7. Continuing Education Programs (Workshops/Lectures).

Continuing Competency Hour or Credit means:

1. Academic Credit:
  - a. One semester hour of academic credit equals 15 continuing competency credit hours; and
  - b. One-quarter hour of academic credit equals 10 continuing competency credit hours;
2. Home Study: A maximum of 8 hours of credit per a biennial renewal period may be obtained through home study programs;
3. Jurisprudence Examination: 4 hours will be granted for licensees who complete the Jurisprudence Examination, the examination must be taken at least 1 time every 10 years;
4. Tours: 1 hour will be granted for each 60 minutes of participation. A licensee may earn up to 4 hours per biennium renewal period;
5. District/State/National Association Meetings: 1 hour will be granted for attending a District, State, and/or National Meeting. A licensee may earn up to 8 hours per biennium renewal period;
6. Exhibits/Displays: 1 hour per program will be granted for viewing exhibits/displays. A licensee may earn up 4 hours per biennium renewal period;
7. Continuing Education Programs (Workshops/Lectures): 60 minutes of participation equals 1 continuing competency hour.

Cremation means the technical process that uses heat and evaporation to reduce human remains to bone fragments.

Department means the Department of Health and Human Services Regulation and Licensure of the State of Nebraska.

Director means the Director of Regulation and Licensure or the Chief Medical Officer if one has been appointed pursuant to Neb. Rev. Stat. § 81-3201, for performance of the duties set out in that statute.

Division means the Credentialing Division of the Department of Health and Human Services Regulation and Licensure.

Embalming means the practice of preparing a dead human body for burial or other final disposal by a licensed Funeral Director and Embalmer or an apprentice, requesting and obtaining burial or removal permits, or assuming any of the other duties incident to the practice of embalming. Any person who publicly professes to be a Funeral Director and Embalmer or an apprentice is deemed to be practicing embalming. The performance of the following acts is also deemed the practice of embalming:

1. The disinfection and preservation of dead human beings, entire or in part; and
2. The attempted disinfection and preservation thereof by the use or application of chemical substances, fluids, or gases ordinarily used, prepared, or intended for such purposes, either by outward application of such chemical substances, fluids, or gases on the body or by introducing them into the body, by vascular or hypodermic injection, or by direct introduction into the organs or cavities.

Funeral Directing means

1. Counseling families or next of kin in regard to the conduct of a funeral service for a dead human body for burial, disposition, or cremation or directing or supervising burial, disposition, or cremation of dead human bodies;
2. Providing for or maintaining a funeral establishment; or
3. The act of representing oneself as or using in connection with one's name the title of Funeral Director, mortician, or any other title implying that s/he is engaged in the business of funeral directing.

Funeral Establishment means a place of business situated at a specific street address or location devoted to the care and preparation of dead human bodies for burial, disposition, or cremation or to conducting or arranging funeral services for dead human bodies.

Inactive License means the voluntary termination of the right or privilege to engage in funeral directing and/or embalming. The licensee retains the right or privilege to represent himself or herself as having an inactive license.

Licensee means a person licensed by the Department as a Funeral Director and Embalmer on or after January 1, 1994, or a person licensed as a Funeral Director or Embalmer prior to January 1, 1994.

Licensure examination means a national standardized examination, the Jurisprudence examination, and the vital statistic forms examination. The national standardized examination is developed and administered by The International Conference of Funeral Service Examining Boards.

Official Transcript means issued by and under the original seal of the educational institution.

NAC means the Nebraska Administrative Code, the system for classifying State agency rules and regulations. These regulations are 172 NAC 67.

Supervision means the direct oversight or the easy availability of the supervising funeral director and embalmer. The first 25 funeral assists and embalmings must be completed under direct onsite supervision of the supervising funeral director and embalmer.

Verified means sworn to before a Notary Public.

67-003 LICENSE ISSUANCE REQUIREMENTS: The criteria for issuance of a license and the documentation required by the Board are set forth below:

67-003.01 Initial Licensure

67-003.01A Requirements: An applicant must:

1. Have earned the equivalent of 60 semester hours of college credit, which includes:
  - a. 6 semester hours of English;
  - b. 6 semester hours of accounting;
  - c. 8 semester hours of chemistry;
  - d. 12 semester hours of biological science relating to the human body; and
  - e. 6 semester hours of psychology or counseling;
2. Have completed a full course of instruction in an accredited school of mortuary science. Hours earned in a school of mortuary science as part of the mortuary program may not be used for the 60 semester hours;
3. Have completed a 12-month apprenticeship under the supervision of a licensed Funeral Director and Embalmer practicing in the State of Nebraska. The apprenticeship must:
  - a. Be registered with the Department prior to the start date;
  - b. Be completed in one of the following ways:
    - (1) 6 months split as specified in 172 NAC 67-004.02; or

- (2) Full 12 months; and
  - c. Consist of arterially embalming 25 bodies and assisting with 25 funerals;
- 4. Have successfully passed the national standardized examination, the Nebraska jurisprudence examination and Nebraska vital statistic forms examination with a score of 75% or above on each examination; and
- 5. Have attained at least the age of majority and have good moral character.

67-003.01B Application Process: The following must be submitted to the Department:

- 1. Application: The completed application on Attachment A attached to these regulations and incorporated by this reference.
- 2. Conviction and Licensure Information:
  - a. If the applicant has been convicted of a misdemeanor or felony:
    - (1) Official Court Record, which includes charges and disposition;
    - (2) Copies of arrest records;
    - (3) A letter from the applicant explaining the nature of the conviction;
    - (4) All addiction/mental health evaluations and proof of treatment; and
    - (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
  - b. If the applicant holds a license in another state(s), the name of such state(s);
  - c. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
- 2. Academic Transcript: An official transcript showing receipt of completion of:
  - a. 60 semester hours of college credit as defined in 172 NAC 67-003.01A; and
  - b. A full course of instruction in an accredited school of mortuary science.

3. Embalming/Funeral Assists: 25 case reports showing completion of arterially embalmed bodies and evidence of 25 funeral assists on a form provided by the Department;
4. Age of Majority: Evidence that s/he is at least the age of majority, such as:
  - a. Driver's license;
  - b. Birth certificate;
  - c. Marriage license; or
  - d. Other similar documentation;
5. Attestation by the Applicant:
  - a. That s/he has not practiced in Nebraska prior to the application for a license; or
  - b. To the actual number of days practiced in Nebraska prior to the application for a license.
6. Examination: An official score report from the International Conference of Funeral Service Examining Boards, Inc.; and
7. Fee: The required licensure fee.

67-003.01C Pro-rated Fee: When a license will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the license will be valid until the next subsequent renewal date.

67-003.01D Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 67-014, or such other action as provided in the statutes and regulations governing the credential.

67-003.01E Application Processing Timeframes: The Department will act within 150 days upon all completed applications for a license.

#### 67-003.02 Reciprocity

67-003.02A Requirements: An applicant for a license to practice as a Funeral Director and Embalmer who is licensed or credentialed under a similar name in another state or jurisdiction must:

1. Hold a current license or credential of similar name in another state or jurisdiction;
2. Have earned the equivalent of 60 semester hours of college credit, and have either coursework or practice as follows:

- a. The following coursework:
    - (1) 6 semester hours of English;
    - (2) 6 semester hours of accounting;
    - (3) 8 semester hours of chemistry;
    - (4) 12 semester hours of biological science relating to the human body; and
    - (5) 6 semester hours of psychology or counseling; or
  - b. 5 years of practice as licensed or credentialed under a similar name as Funeral Director and Embalmer in another state immediately prior to application. A year of apprenticeship does not constitute licensure/certification in this case. It must be 5 years of practice beyond the year of apprenticeship.
3. Have completed a full course of instruction in an accredited school of mortuary science. Hours earned in a school of mortuary science as part of the mortuary program may not be used for the 60 semester hours;
  4. Have successfully passed the National Board Examination, the Nebraska jurisprudence examination, and the Nebraska vital statistic forms examination with a score of 75% or above on each examination;
  5. Have attained at least the age of majority and have good moral character; and
  6. Have been in the active and continuous practice under license or credential in the State, Territory, or District of Columbia from which s/he comes for at least one year; and have been actively engaged in the practice under such license or credential or in an accepted residency or graduate training program for at least one of the three years immediately preceding the application for licensure.

67-003.02B Application Process: The following must be submitted to the Board:

1. Application: The completed application must be submitted on Attachment A;
2. Official Transcript: An official transcript showing completion of:
  - a. 60 semester hours of college credit as defined in 172 NAC 67-003.01A or evidence of 5 years of practice pursuant to 67-003.02A section 2b; and
  - b. Completion of a full course of instruction in an accredited school of mortuary science.
3. Conviction and Licensure Information:



- a. If the applicant has been convicted of a misdemeanor or felony:
    - (1) Official Court Record, which includes charges and disposition;
    - (2) Copies of arrest records;
    - (3) A letter from the applicant explaining the nature of the conviction;
    - (4) All addiction/mental health evaluations and proof of treatment; and
    - (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
  - b. The name of the state(s) in which the applicant holds a license(s)/credential(s);
  - c. If any disciplinary action was taken against the applicant's license/credential by another state, an official copy of the disciplinary action, including charges and disposition;
4. Certification of Licensure: Have the licensing or certifying agency submit to the Department a certification of licensure/credential. The certification must certify:
  - a. That the applicant is duly licensed or credentialed, that his/her license or credential has never been suspended or revoked, and that so far as the record of the agency is concerned, the applicant is entitled to its endorsement;
  - b. The nature of disciplinary actions, if any, taken against the applicant's license or credential;
    - (1) The date of the applicant's license/credential;
    - (2) The score attained on the examination; and
    - (3) Documentation of the requirements for licensure/credential in the other jurisdiction which are currently in effect and which were in effect at the time the license/credential was issued;
5. Examination: An official score report from the International Conference of Funeral Service Examining Boards, Inc.
6. Age of Majority: Evidence that s/he is at least the age of majority, such as:
  - a. Driver's license;
  - b. Birth certificate;

Effective Date  
01/19/2005

NEBRASKA HEALTH AND HUMAN SERVICES  
REGULATION AND LICENSURE

172 NAC 67

- c. Marriage license; or
- d. Other similar documentation;

7. Attestation by the applicant:

- a. That s/he has not practiced in Nebraska prior to the application for a license; or
- b. To the actual number of days practiced in Nebraska prior to the application for a license; and

8. Fee: The required licensure fee.

67-003.02C Pro-rated Fee: When a license will expire within 180 days after its initial issuance date, the Department will collect \$25, the Licensee Assistance Program fee of \$1, and the license will be valid until the next subsequent renewal date.

67-003.02D Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential, is subject to assessment of an Administrative Penalty pursuant to 172 NAC 67-014, or such other action as provided in the statutes and regulations governing the credential.

67-003.02E Application Processing Time: The Department will act within 150 days upon all completed applications for a license.

67-004 APPRENTICESHIP REQUIREMENTS: Individuals applying for an initial license as a Funeral Director and Embalmer must complete the apprenticeship under the supervision of a licensed Funeral Director and Embalmer practicing in the State of Nebraska. Apprenticeships must be served in the State of Nebraska in a licensed Funeral Establishment. Applicants may complete the 12 months apprenticeship in either a split apprenticeship or a full apprenticeship. The criteria and documentation required by the Department are set forth below:

67-004.01 12-Month Apprenticeship

67-004.01A Requirements: Applicants must:

1. Have completed at least 39 of the 60 hours specified in 172 NAC 67-003.01A;
2. Have successfully completed a full course of study in an accredited school of mortuary science;
3. Have successfully passed the national standardized examination;
4. Be of the age of majority and of good moral character; and
5. Submit to the Board:

- a. A completed application on Attachment B attached to these regulations and incorporated by this reference;
- b. An official transcript showing completion of:
  - (1) At least 39 of the required 60 semester hours of college credit specified in 172 NAC 67-003.01A; and
  - (2) A full course of instruction in an accredited school of mortuary science;
- c. An official score report from the International Conference of Funeral Service Examining Boards, Inc.;
- d. Evidence that s/he is at least the age of majority, such as:
  - (1) Driver's license;
  - (2) Birth certificate;
  - (3) Marriage license; or
  - (4) Other similar documentation;
- e. If the applicant has been convicted of a misdemeanor or felony:
  - (1) Official Court Record, which includes charges and disposition;
  - (2) Copies of arrest records;
  - (3) A letter from the applicant explaining the nature of the conviction;
  - (4) All addiction/mental health evaluations and proof of treatment; and
  - (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;
- f. Attestation by the applicant:
  - (1) That s/he has not practiced in Nebraska prior to the application for a registration; or
  - (2) To the actual number of days practiced in Nebraska prior to the application for a registration; and
- g. The required fee.

67-004.01B Changes in Supervisor: The Department must be notified of any supervisor changes, which occur during completion of the apprenticeship by submitting a completed Attachment C attached to these regulations and incorporated by this reference.

67-004.01C Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 67-014, or such other action as provided in the statutes and regulations governing the credential.

67-004.01D Application Processing Time: The Department will act within 150 days upon all completed applications for a license.

67-004.02 Split Apprenticeship

67-004.02A First 6 Month Apprenticeship

67-004.02A1 Requirements: 6 months of apprenticeship must be completed prior to attending an accredited school of mortuary science and will be valid for 6 months from the date of issuance. The apprenticeship must be completed over a continuous 6-month period and will not be extended by the Board. To register, applicants must:

1. Have completed at least 39 of the 60 hours specified in 172 NAC 67-003.01A;
2. Be of the age of majority and of good moral character; and
3. Submit to the Board:
  - a. A completed application on Attachment B;
  - b. An official transcript showing completion of at least 39 or the required 60 semester hours specified in 172 NAC 67-003.01A;
  - c. The required fee;
  - d. Evidence that s/he is at least the age of majority, such as:
    - (1) Driver's license;
    - (2) Birth certificate;
    - (3) Marriage license; or
    - (4) Other similar documentation;
  - e. If the applicant has been convicted of a misdemeanor or felony:
    - (1) Official Court Record, which includes charges and disposition;
    - (2) Copies of arrest records;
    - (3) A letter from the applicant explaining the nature of the conviction;

- (4) All addiction/mental health evaluations and proof of treatment; and
- (5) A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation;

f. Attestation by the applicant:

- (1) That s/he has not practiced in Nebraska prior to the application for a registration; or
- (2) To the actual number of days practiced in Nebraska prior to the application for a registration; and

g. The required fee.

67-004.02A2 Changes in Supervisor: The Department must be notified of any supervisor changes which occur during completion of the apprenticeship by submitting Attachment C attached to these regulations and incorporated by this reference.

67-004.02A3 Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 67-014, or such other action as provided in the statutes and regulations governing the credential.

67-004.02A4 Application Processing Time: The Department will act within 150 days upon all completed applications for a license.

67-004.02B Final 6 Month Apprenticeship: Registration will be valid for 6 months from the date of issuance. The apprenticeship must be completed over a continuous 6-month period and will not be extended by the Board.

67-004.02B1 Requirements: To register, applicants must:

1. Have successfully completed a full course of study in an accredited school of mortuary science;
2. Have successfully passed the national standardized examination; and
3. Submit to the Board:
  - a. A completed application on Attachment B;

- b. An official transcript showing completion of a full course of study in an accredited school of mortuary science; and
- c. An official score report from the International Conference of Funeral Service Examining Boards, Inc.

67-004.02B2 Changes in Supervisor: The Department must be notified of any supervisor changes which occur during completion of the apprenticeship by submitting Attachment C attached to these regulations and incorporated by this reference.

67-004.02B3 Administrative Penalty/Other Action: An individual who practices prior to issuance of a credential is subject to assessment of an Administrative Penalty pursuant to 172 NAC 67-014, or such other action as provided in the statutes and regulations governing the credential.

67-004.02B4 Application Processing Time: The Board will act within 150 days upon all completed applications for registration.

#### 67-005 EXAMINATION ELIGIBILITY

67-005.01 Jurisprudence Examination and Vital Statistics Forms Examination: To be eligible to take the jurisprudence examination and vital statistics forms examination, an applicant must have received written notification from the Department of a 12-month apprenticeship or final 6-month apprenticeship registration. A license will not be issued until the applicant has completed all licensure requirements.

#### 67-006 EXAMINATION PROCEDURES

##### 67-006.01 Applicant Responsibility:

1. To register for the jurisprudence examination and vital statistics forms examination, the applicant must submit to the Department Attachment D attached to these regulations and incorporated by this reference.
2. To register for the national board examination, the applicant must contact The International Conference of Funeral Service Examining Boards.

67-006.02 Department Responsibilities: The Department will review each jurisprudence examination and vital statistics forms examination application and notify the applicant of approval or denial to take the examination.

Effective Date  
01/19/2005

NEBRASKA HEALTH AND HUMAN SERVICES  
REGULATION AND LICENSURE

172 NAC 67

67-006.03 Examination Schedule: The Department will, at least 2 times per year, offer the jurisprudence examination and vital statistics forms examination. The Department will determine dates, location, and times.



67-006.04 Special Accommodations: If special accommodations are requested, such request may be submitted on a form provided by the Department. This information will be retained as confidential and not for public view. The request must include the following information:

1. Applicant Name;
2. Address;
3. Date of Examination for which special accommodations are requested;
4. Type of disability;
5. Specific accommodations requested, i.e.:
  - a. Accessible testing site;
  - b. Braille, Large Print, or Tape;
  - c. Reader as accommodation for visual impairment;
  - d. Scribe/amanuensis as accommodation for learning disability;
  - e. Sign Language Interpreter;
  - f. Extended Time (time-and-a-half, double-time, other);
  - g. Separate testing area;
  - h. Use of computer or other adaptive equipment;
  - i. Any other accommodations requested; and
6. If the applicant has a learning disability, a psychological disability, or hidden disability that requires an accommodation in testing, an originally signed and dated document must be submitted from an appropriate professional (education professional, doctor, psychologist, psychiatrist) verifying the applicant's disabling condition which requires special accommodations.

67-006.05 Failed Examination:

1. An examinee who fails to obtain a passing score on the jurisprudence examination and/or vital statistics forms examination may retake the examination during the next regularly scheduled examination date by notifying the Department of his/her intent to retest.
2. An examinee who fails to obtain a passing score on the national examination may retake the examination in accordance with the policies of The International Conference of Funeral Service Examining Boards.

67-006.06 Notification of Examination Results: The Department will notify an applicant in writing of the licensure examination results within 45 days after the administration of the examination(s).

67-007 RENEWAL OF A LICENSE: All licenses issued by the Department pursuant to the Act and these regulations expire on February 1 of each even-numbered year.

67-007.01 Renewal Process: Any licensee who wishes to renew his/her license must:

1. Meet the continuing competency requirements as specified in 172 NAC 67-008;

2. Pay the renewal fee as prescribed in 172 NAC 67-013; and
3. Respond to the following questions:
  - a. Has your license in any profession in another state been revoked, suspended, limited or disciplined in any manner?
  - b. Have you been convicted of a misdemeanor or felony?

These questions relate to the time period since the last renewal of the license or during the time period since initial licensure in Nebraska if such occurred within the two years prior to the license expiration date.
4. Cause to be submitted to the Department:
  - a. The renewal notice;
  - b. The renewal fee;
  - c. Attestation of completing 16 hours of continuing competency earned within 24 months of the date of expiration or application for waiver of continuing competency. Attestation to meeting continuing competency requirements satisfies the submission of the documentation requirement of Neb. Rev. Stat. §71-110;
  - d. If any disciplinary action was taken against the applicant's license by another state, an official copy of the disciplinary action, including charges and disposition;
  - e. If the licensee has been convicted of a felony or misdemeanor:
    - (1) Official Court Record, which includes charges and disposition;
    - (2) Copies of arrest records;
    - (3) A letter from the licensee explaining the nature of the conviction;
    - (4) All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
    - (5) A letter from the probation officer addressing probationary conditions and current status, if the licensee is currently on probation.

67-007.02 First Notice: At least 30 days before February 1 of each even-numbered year, the Department will send a renewal notice by means of regular mail to each licensee at the licensee's last place of residence as noted in the records of the Department. It is the responsibility of the licensee prior to the renewal period to notify the Department of any name and/or address changes.

67-007.02A The renewal notice must specify:

1. The name of the licensee;
2. The licensee's last known address of record;
3. The license number;
4. The expiration date of the license;
5. The renewal fee as prescribed in 172 NAC 67-013;
6. The number of continuing competency hours required for renewal; and
7. The option to place the license on either inactive or lapsed status.

67-007.02B The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee;
3. The licensee's social security number;
4. Attestation of completing 16 hours of continuing competency earned within 24 months of the date of expiration and a listing of the continuing competency activities completed or application for waiver of continuing competency; and
5. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

67-007.02C If the licensee wishes to place his/her license on either inactive or lapsed status s/he must:

1. Request that his/her license be placed on inactive status by submitting to the Department:
  - a. The renewal notice with a check in the box marked inactive; and
  - b. The fee of \$25; or
2. Request that his/her license be placed on lapsed status by submitting to the Department:
  - a. The renewal notice with a check in the box marked lapsed.

67-007.02D The Department will notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.

67-007.03 Second Notice: The Department will send to each licensee who fails to renew his/her license or place the license on inactive or lapsed status in response to the first notice, a second notice of renewal in accordance with the requirements of 172 NAC 67-007.01 that specify:

1. That the licensee failed to pay the renewal fee;
2. That the license has expired;
3. That the licensee is subject to an administrative penalty under 172 NAC 67-014 if s/he practices after the expiration date;
4. That upon receipt of the renewal fee, together with an additional late fee of \$25, and documentation of continuing competency hours within that time, no order of revocation will be entered; and
5. That upon failure to receive \$25 in addition to the regular renewal fee, and documentation of continuing competency hours, the license will be revoked as specified in 172 NAC 67-009.

67-007.03A The licensee must apply for renewal by submitting to the Department:

1. The renewal notice;
2. The renewal fee and the additional late fee of \$25;
3. The licensee's social security number;
4. Attestation by the licensee:
  - (1) That s/he has not practiced in Nebraska since the expiration of his/her license; or
  - (2) To the actual number of days practiced in Nebraska since the expiration of his/her license;
5. Attestation of completing 16 hours of continuing competency hours earned within 24 months of the date of expiration and a listing of the continuing competency activities completed or application for waiver of continuing competency; and
6. Documentation relating to misdemeanor or felony conviction(s) or licensure revocation, suspension, limitation or disciplinary action (if applicable).

67-007.03B If the licensee wishes to place his/her license on either inactive or lapsed status s/he must:

1. Request that his/her license be placed on inactive status by submitting to the Department:
  - a. The renewal notice with a check in the box marked inactive; and
  - b. The fee of \$25; or
2. Request that his/her license be placed on lapsed status by submitting to the Department:
  - a. The renewal notice with a check in the box marked lapsed.

67-007.03C The Department must notify the licensee in writing of the acceptance or denial of the request to allow the license to be placed on lapsed or inactive status.

67-007.04 When any licensee fails, within 30 days of expiration of a license, to pay the renewal fee, to submit documentation of continuing competency, and/or to pay an additional late fee of \$25, the Department will automatically revoke the license without further notice or hearing and make proper record of the revocation.

67-007.05 Failure to meet the continuing competency requirement for renewal within 30 days of expiration of his/her license will constitute non-renewal of a license, unless a waiver of continuing competency is granted or the license is placed on inactive or lapsed status. When any licensee fails, within 30 days of expiration of a license, to meet the continuing competency requirements for renewal and to pay an additional late fee of \$25, the Department revokes the license after notice and opportunity for hearing. Hearings held before the Department will be conducted in accordance with Neb. Rev. Stat. §§ 84-901 to 84-920, Administrative Procedure Act and 184 NAC 1, Rules of Practice and Procedure of the Department.

67-007.06 When the licensee has given notification to the Department that s/he desires to have the license lapse or be placed on inactive status upon expiration, 172 NAC 67-007.04 and 67-007.05 will not apply.

67-007.07 The Department may refuse to renew a license for falsification of any information submitted for renewal of a license. The refusal must be made pursuant to Neb. Rev. Stat. §§ 71-149 to 71-155 and 184 NAC 1, Rules of Practice and Procedure of the Department.

67-007.08 An individual who practices after expiration of his/her credential, is subject to assessment of an Administrative Penalty pursuant to 172 NAC 67-014, or such other action as provided in the statutes and regulations governing the credential.

#### 67-008 CONTINUING COMPETENCY REQUIREMENTS

67-008.01 General Requirements: On or before February 1st of each even-numbered year, each Funeral Director and Embalmer, Funeral Director, or Embalmer holding an active license in the State of Nebraska must:

1. Complete at least 16 hours of approved continuing competency hours during the preceding 24-month period.
2. Take the Jurisprudence Examination at least 1 time every 10 years.

67-008.02 Continuing Competency Hour/Credit Calculations. The following provides the hour/credit calculations:

1. Academic Credit: All 16 hours of continuing competency hours per a biennial renewal period may be obtained through academic credit; hours are calculated as follows:
  - a. 1 semester hour of academic credit equals 15 continuing competency hours;
  - and
  - b. 1 quarter hour of academic credit equals 10 continuing competency hours;
2. Home Study: A maximum of 8 hours of continuing competency hours per a biennial renewal period may be obtained through home study programs.
3. Continuing Education Workshops: All 16 hours of continuing competency hours per a biennial renewal period may be obtained through continuing education workshops; hours obtained are calculated as follows:

- a. 60 minutes of participation equals 1 continuing competency hour. Credit will not be awarded for breaks and meals.
4. Jurisprudence Examination: 4 hours of continuing competency hours will be granted for licensees receiving a score of 75% or above on the jurisprudence examination. A licensee must take the jurisprudence examination at least 1 time every 10 years.
5. Tours: A maximum of 4 hours of continuing competency credit per a biennial renewal period may be obtained through a funeral directing and embalming related tour. Hours are calculated as follows:
  - a. 60 minutes of tour participation equals 1 continuing competency credit.
6. Exhibits/Displays: A maximum of 4 hours of continuing competency hours per a biennial renewal period may be obtained through a funeral directing and embalming related exhibit/display. Hours are calculated as follows:
  - a. If a continuing education workshop provides an exhibit or display area, a licensee may earn 1 continuing competency credit per workshop for viewing the exhibits/displays.
7. District/State/National Association Meetings: A maximum of 8 hours of continuing competency hours per a biennial renewal period may be obtained through attendance as a District, State, or National Association Meeting. Hours are calculated as follows:
  - a. 60 minutes of participation constitutes 1 continuing competency credit. Only 1 hour may be obtained per meeting.

67-008.03 Acceptable Continuing Competency Topic Areas: The Board does not approve continuing competency programs/activities. In order for a continuing competency activity/program to be accepted for renewal or reinstatement of a license, the activity must include one or a combination of the following topic areas:

1. Communication/Media;
2. Counseling/Arbitration;
3. Customer relations;
4. Disaster training;
5. Embalming practice;
6. Funeral directing practice;
7. Management (stress/personnel/business);

8. Marketing/advertising;
9. Personal development; or
10. Pre-need.

67-008.04 Licensee Responsibilities: The licensee is responsible for:

1. Maintaining documentation of attending a continuing competency program/activity and the program/activity outline.
2. If the licensee is a presenter, maintaining documentation of his/her presentation and the program/activity outline. A presenter may receive credit for only the initial presentation during a renewal period. Credit will not be given for subsequent presentations of the same program.
3. Submitting to the Department, on the renewal form, attestation of meeting the continuing competency requirements. The completed form must include the following information:
  - a. The title of the program/activity;
  - b. The number of hours of approved continuing competency credit received for each program/activity;
  - c. The date(s) of the continuing competency program/activity;
  - d. The location of the continuing competency program/activity; and
  - e. The name of the provider of the continuing competency program/activity.

67-008.05 Exemption from Continuing Competency: If applicable, a licensee must file a request for exemption from the continuing competency requirements pursuant to 172 NAC 67-008.09.

67-008.06 Board Review: The Board will not renew or reinstate the license of any person who has not complied with the continuing competency requirements of 172 NAC 67-008.01.

67-008.07 Continuing Education Workshop Criteria: To be considered acceptable for continuing competency, a continuing education workshop must meet the following criteria:

1. The program must be at least 60 minutes in duration;
2. The program's objectives must relate to the topic areas defined in 172 NAC 67-008.03;
3. Presenters of programs must be qualified by education, experience or training;
4. Continuing Education Workshops must be open to all Funeral Directors and Embalmers licensed by Nebraska who meet the pre-requisites for the program; and

5. The program provider must have a process for verifying attendance and issue a certificate of attendance.
  - a. Each certificate must include the following:
    - (1) Program name;
    - (2) Name of the participant and his or her license number;
    - (3) Provider's name;
    - (4) Date the program began and ended; and
    - (5) Number of hours received by the licensee.

67-008.08 Criteria for a Home Study Program: To be considered acceptable, a home study program must meet the following criteria:

1. The home study program's objectives must relate to the topic areas defined in 172 NAC 67-008.03.
2. The program author(s) of home study programs must meet the following qualifications:
  - a. Have experience in the content and subject matter;
  - b. Have expertise in teaching and instructional methods suitable to subject presented; and
  - c. Have suitable academic qualifications, certification credentials, and/or experience for subject presented;
3. There must be a post-test.

67-008.09 Waiver of Continuing Competency: The Department, on the recommendation of the Board, may waive the continuing competency requirements, in whole or in part, for any 2-year licensing period when a licensee submits documentation that circumstances beyond his/her control prevented the completion of the requirements.

67-008.09A The circumstances must include situations in which the licensee:

1. Holds a Nebraska license but is not practicing funeral directing and/or embalming in Nebraska; or
2. Has been in the service of the regular armed forces of the United States during any part of the 24 months immediately preceding the license renewal date; or
3. Has been suffering from a serious or disabling illness or physical disability which prevented completion of the required number of continuing competency hours during the 24 months immediately preceding the license renewal date; or
4. Has been first licensed within 24 months immediately proceeding the renewal date.



67-008. 09B Application for Waiver of Continuing Competency: Any licensee who seeks a waiver of continuing competency, in part or in total, for any 2-year licensing period must apply to the Department. The Department, on the recommendation of the Board, may waive continuing competency requirements in part or in total for any 2-year period. The licensee must submit:

1. A request for waiver of continuing competency on the renewal application. Only completed applications will be considered, and the Department must receive the application on or before February 1 of the year the license is subject to renewal;
2. Documentation of the circumstances beyond the licensee's control which prevented completion of continuing competency requirements as set forth in 172 NAC 67-008.09A must include the following:
  - a. If the licensee holds a Nebraska license but is not practicing in Nebraska, s/he must make an appropriate statement in the application;
  - b. If the licensee has served in the regular armed forces of the United States during part of the 24 months immediately preceding the license renewal date, s/he must make an appropriate statement in the application and submit official documentation stating the dates of the service.
  - c. If the licensee has suffered from a serious or disabling illness or physical disability which prevented completion of the required number of hours of continuing competency during the 24 months immediately preceding the license renewal date, s/he must make an appropriate statement in the application and submit a statement from a treating physician(s) stating that the licensee was injured or ill, the duration of the illness or injury and of the recovery period, and that the licensee was unable to attend continuing competency programs during that period.
  - d. If the licensee was first licensed within the 24 months immediately preceding the license renewal date, s/he must make an appropriate statement in the application.

67-008. 09C The Department, on recommendation of the Board, may grant or deny, in part or in total, an application for waiver of continuing competency requirements, upon proof that circumstances beyond the applicant's control prevented completion of the requirements.

1. When the Department determines to deny an application for waiver of continuing competency requirements, it will send to the applicant by certified mail to the last name and address of record in the Department a notice setting forth the reason for the denial determination.

- a. The applicant has 30 days from the date of mailing of the denial notice to make a written request to the Department for a hearing. The hearing will be conducted in accordance with Neb. Rev. Stat. §§ 84-901 to 84-920, Administrative Procedure Act.
  - b. The Department will issue a final order setting forth the results of the hearing.
2. When the Department determines to grant a waiver of continuing competency requirements, the applicant will be notified within 30 days of receipt of the application.

67-008.10 Audit of Continuing Competency: The Board may biennially select, in a random manner, a sample of the license renewal applications for audit of continuing competency credits. Each licensee must maintain in his/her personal file documentation of attendance received from continuing competency programs. Licensees selected for audit are required to produce satisfactory documentation of his/her attendance.

1. The Department will send a notice of audit to each licensee selected for audit.
2. When selected for audit, the licensee must provide satisfactory documentation of attendance at an approved continuing competency program. Within 30 days of the notice of audit, extension of time may be granted at the discretion of the Department.
3. Failure to provide satisfactory documentation may result in non-renewal of the license.
4. The licensee selected for audit must submit to the Department documentation of meeting the requirements for continuing competency as follows:
  - a. Copies of attendance certificates;
  - b. Letters documenting attendance from providers; or
  - c. Copies of transcripts from educational institutions.
5. Attendance records will not be returned.
6. Failure to notify the Department of a current mailing address will not excuse the licensee from the audit requirement.
7. The Board will notify the licensee upon satisfactory completion of the audit.

67-009 LICENSURE REVOCATION FOR FAILURE TO MEET RENEWAL REQUIREMENTS: The Department will revoke a license within 30 days of its expiration when the licensee fails to meet the renewal requirements.

67-009.01 Revocation of License for Non-Payment of Renewal Fee

67-009.01A When a licensee fails to pay the required renewal fee, to submit proof of continuing competency, and/or to pay an additional fee of \$25 and fails to request that his/her license be placed on either inactive or lapsed status within 30 days of its expiration, the Department will automatically revoke the license without further notice or a hearing and make proper record of the revocation.

1. The revocation notice must specify that:
  - a. The licensee was given a first and second notice of renewal requirements and the respective dates for these notices;
  - b. The licensee failed to renew the license or to request that his/her license be placed on inactive or lapsed status;
  - c. The Department has revoked the license;
  - d. The licensee has a right to appeal the revocation; and
  - e. The licensee has a right to reinstatement of the license.

67-009.02 Revocation of License for Failure to Meet Continuing Competency Requirements: When a licensee fails within 30 days of the expiration of his/her license to meet the continuing competency requirement for licensure renewal, the Department will revoke his or her license after notice and opportunity for a hearing.

1. The revocation notice for failure to meet continuing competency requirements must specify that:
  - a. The licensee was given a first and final notice of failure to meet the continuing competency requirements and the respective dates of each notice;
  - b. The licensee failed to renew the license or to have his/her license placed on inactive or lapsed status;
  - c. The Department will revoke the license within 30 days of date of receipt of the notice unless the licensee requests in writing a hearing;
  - d. The licensee has a right to appeal the revocation; and
  - e. The licensee has a right to reinstatement of the license.

67-010 RE-CREDENTIALING: This section applies to individuals previously issued a Nebraska credential who have lost the legal authority to practice in total or in part and who seek the authority to return to practice in Nebraska with a valid Nebraska credential.

67-010.01 Eligibility

67-010.01A An individual whose credential has been previously:

1. Placed on lapsed status;
2. Placed on inactive status;

3. Revoked for failure to meet the renewal requirements;
4. Suspended or limited for disciplinary reasons; or
5. Voluntarily surrendered or voluntarily limited for an indefinite period of time;

may request, at any time, to be re-credentialed and re-authorized to practice under the credential, in accord with these regulations.

67-010.01B An individual whose credential has been revoked for disciplinary reasons may apply for reinstatement only after a period of two years has elapsed from the date of revocation.

67-010.01C An individual who practices prior to re-credentialing is subject to:

1. Assessment of an Administrative Penalty pursuant to 172 NAC 67-014; and
2. Limitation or other sanction on the credential, or denial of the request to be re-credentialed and re-authorized to practice under the credential, and referral for prosecution for uncredentialed practice, as provided in the statutes and regulations governing the credential.

67-010.02 Requirements for Restoration from Lapsed Status: A person whose credential has been placed on lapsed status may have his/her credential restored from lapsed to active status by the Department upon proof to the Department that s/he meets the requirements pursuant to 172 NAC 67-003.

67-010.02A If the Department has evidence that an applicant has practiced while his/her credential was lapsed, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 67-014;
2. Initiate disciplinary action against the lapsed credential;
3. Deny the request to restore the credential from lapsed to active status; or
4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

67-010.02B If the Department has evidence that an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Initiate disciplinary action against the lapsed credential;
2. Deny the request to restore the credential from lapsed to active status;  
or
3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

67-010.02C The Department will act within 150 days on all completed applications.

67-010.02D The applicant will be provided with notice and the opportunity for hearing in accord with the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920 before any of the actions pursuant to 172 NAC 67-010.02A and 67-010.02B are final.

67-010.03 Requirements to Move a Credential from Inactive to Active Status: A person whose credential has been placed on inactive status may have his/her credential moved from inactive to active status upon proof to the Department that s/he meets the following requirements:

1. Meet renewal requirements, including:
  - a. The continuing competency requirements; and
  - b. Paying the renewal fee and any other applicable fees;
2. Attest:
  - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
  - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

67-010.04 Procedures for Moving from Inactive to Active Status: To move a credential from inactive status to active status, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
  - a. Name;
  - b. Address;
  - c. Social security number; and
  - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
  - e. A statement describing all:
    - (1) Felony or misdemeanor convictions during the time period since the credential was active;
      - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
        - [1] Official Court Record, which includes charges and disposition;
        - [2] Arrest records;
        - [3] A letter from the applicant explaining the nature of the conviction;
        - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
        - [5] A letter from the probation officer addressing probationary

conditions and current status, if the applicant is currently on

probation.

- (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since

the credential was active;

- (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and

- (3) Disciplinary charges pending against any professional credential held by the applicant.

- f. Verification that the continuing competency requirements for renewal have been met;

2. The renewal fee and any other applicable fees.

3. Attestation by applicant:

- a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
- b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

67-010.04A If an applicant has practiced while his/her credential was inactive, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 67-014;
2. Initiate disciplinary action against the credential;
3. Deny the request to move the credential from inactive to active status; or
4. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

67-010.04B If an applicant has committed any other violation of the statutes and regulations governing the credential, the Department may:

1. Initiate disciplinary action against the credential;
2. Deny the request to move the credential from inactive to active status; or
3. Move the credential to active status and impose limitation(s) or other sanctions on the credential.

67-010.04C In either event pursuant to 172 NAC 67-010.04A or 67-010.04B, a notice and the opportunity for hearing will be given to the applicant.

67-010.04D The Department will act within 150 days on all completed applications.

67-010.05 Requirements for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies not more than one year following revocation for failure to meet renewal requirements must:

1. Meet the renewal requirements, including:
  - a. The continuing competency requirements; and
  - b. Paying the renewal fee, the late fee of \$35 and any other applicable fees;
2. Attest:
  - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
  - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.

67-010.06 Procedures for Reinstatement Within One Year Following Revocation for Failure to Meet the Renewal Requirements: To reinstate a credential not more than one year following revocation for failure to meet renewal requirements, the applicant must submit the following to the Department:

1. A written application which contains the following information about the applicant:
  - a. Name;
  - b. Address;
  - c. Social security number; and
  - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
  - e. A statement describing all:
    - (1) Felony or misdemeanor convictions during the time period since the credential was active;
      - [a] If the applicant has been convicted of a felony or misdemeanor, provide copies of:
        - [1] Official Court Record, which includes charges and disposition;
        - [2] Arrest records;
        - [3] A letter from the applicant explaining the nature of the conviction;
        - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
        - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
    - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was revoked;
      - [a] If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including charges and

- disposition; and
- (3) Disciplinary charges pending against any professional credential held by the applicant.
- (f) Verification that the continuing competency requirements for renewal have been met;
- 2. The renewal fee, the late fee of \$35, and any other applicable fees.
- 3. Attestation by the applicant:
  - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
  - b. To the actual number of days practiced if the applicant has practiced in Nebraska since s/he last held an active credential.
    - (1) If an applicant has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 67-014 in which case a notice and opportunity for hearing will be sent to the applicant.
    - (2) If an applicant has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 67-010.06B.

The Department will forward the application to the Board for its recommendation pursuant to Neb. Rev. Stat. § 71-110 (5).

67-010.06A The Board's recommendation to the Department may be to:

- 1. Reinstate the credential;
- 2. Reinstate the credential with terms, conditions or restrictions; or
- 3. Deny reinstatement.

67-010.06B Upon receipt of the Board's recommendation, the Department will, within 150 days, send to the applicant a written notice of the Department's response. The Department may:

- 1. Reinstate the credential. An Administrative Penalty may be assessed pursuant to 172 NAC 67-014 if warranted;
- 2. If the Department determines that the applicant has committed acts or offenses prohibited by Neb. Rev. Stat. §§ 71-147 or 71-148, the Department may:
  - a. Reinstate the credential with terms, conditions, or restrictions. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920. An Administrative Penalty may be assessed pursuant to 172 NAC 67-014 if warranted; or



- b. Deny reinstatement. In such case the applicant will be provided notice and the opportunity for hearing before the Department pursuant to the Department's Rules of Practice and Procedure and Neb. Rev. Stat. §§ 84-901 to 84-920.

67-010.07 Requirements for Reinstatement More Than One Year Following Revocation for Failure to Meet the Renewal Requirements: An applicant for reinstatement who applies more than one year after revocation for failure to meet the renewal requirements must:

1. Petition the Board for reinstatement pursuant to Neb. Rev. Stat. § 71-161.05. The petition for reinstatement must be accompanied by:
  - a. Verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and
  - b. Verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.
2. Meet the renewal requirements, including:
  - a. The continuing competency requirements; and
  - b. Paying the renewal fee, the late fee of \$75 and any other applicable fees.
3. Attest:
  - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
  - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

67-010.08 Procedures for Reinstatement More Than One Year Following Revocation for Failure to Meet Renewal Requirements: An applicant for reinstatement more than one year following revocation for failure to meet renewal requirements must submit to the Board:

1. A petition for reinstatement:
  - a. Stating the reason the petitioner believes his/her credential should be reinstated;
  - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was revoked.
  - c. Containing the following information about the petitioner:
    - (1) Name;
    - (2) Address;
    - (3) Social security number; and

- (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
  - (5) A statement describing all:
    - (a) Felony or misdemeanor convictions during the time period since the credential was active;
      - [1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
        - [a] Official Court Record, which includes charges and disposition;
        - [b] Arrest records;
        - [c] A letter from the petitioner explaining the nature of the conviction;
        - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
        - [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
    - (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was revoked;
      - [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
    - (c) Disciplinary charges pending against any professional credential held by the petitioner.
  - (6) Verification that the continuing competency requirements for renewal have been met.
- 2. The renewal fee, the late fee of \$75, and any other applicable fees.
  - 3. Attestation by the petitioner:
    - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
    - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
      - (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 67-014 in which case a notice and opportunity for hearing will be sent to the petitioner.
      - (2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 67-010.08E.

67-010.08A The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

67-010.08B Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

67-010.08C If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

67-010.08D Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition must be granted by the Board, if formally requested by the petitioner.

67-010.08D1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

67-010.08E If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

67-010.08F The Board will review the petition to recommend reinstatement and the record of any hearing held, and submits its recommendation regarding reinstatement and the record on which such recommendation is made to the Department within 180 days of receipt of the petition to recommend reinstatement.

67-010.08F1 If the Board recommends reinstatement of the credential, the Department may:

1. Accept the Board's recommendation and grant reinstatement of the credential.
2. If the Department determines that the Board's recommendation is: in excess of statutory authority; made upon unlawful procedure; unsupported by competent, material, and substantial evidence; or arbitrary or capricious, the Department may not accept the Board's recommendation and either:
  - a. Deny reinstatement of the credential; or
  - b. Grant reinstatement with terms, conditions, or restrictions.

67-010.08F2 If the Board recommends denial of reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

67-010.08F3 If the Board recommends reinstatement with terms, conditions, or restrictions, the Department may:

1. Accept the Board's recommendation and grant reinstatement with terms, conditions, or restrictions; or
2. Not accept the Board's recommendation and either:
  - a. Deny reinstatement of the credential; or
  - b. Grant reinstatement of the credential.

67-010.08F4 The Department will, within 150 days of receipt of the Board's recommendation, send to the petitioner a written notice of the Department's reinstatement with or without terms, conditions, or restrictions or denial of reinstatement of the credential.

67-010.08F5 The petitioner may appeal the Department's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

67-010.09 Requirements to Reinstate a Credential Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must meet the following requirements:

1. Petition the Board for reinstatement:

- a. The petition for reinstatement must be accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and
  - b. verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
2. Pay the reinstatement fee of \$75, and other profession-specific requirements if expressly set by law;
3. If the credential was revoked or suspended, attest:
  - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
  - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.

67-010.10 Procedures for Reinstatement Following Suspension, Limitation, or Revocation for Disciplinary Reasons: An applicant for reinstatement following suspension, limitation, or revocation for disciplinary reasons must submit to the Board:

1. A petition for reinstatement:
  - a. Stating the reason the petitioner believes his/her credential should be reinstated;
  - b. Accompanied by verified recommendations from at least two credentialed practitioners of the same profession as the petitioner each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked; and verified recommendations from at least two citizens each having personal knowledge of the activities of the petitioner since the credential was suspended, limited, or revoked.
  - c. Containing the following information about the petitioner:
    - (1) Name;
    - (2) Address;
    - (3) Social security number; and
    - (4) If the petitioner holds a professional credential in another state, a list of the state(s) and type of credential;
    - (5) A statement describing all:
      - (a) Felony or misdemeanor convictions during the time period since the credential was suspended, limited, or revoked;
        - [1] If the petitioner has been convicted of a felony or misdemeanor, provide copies of:
          - [a] Official Court Record, which includes charges and disposition;
          - [b] Arrest records;
          - [c] A letter from the petitioner explaining the nature

- of the conviction;
    - [d] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
    - [e] A letter from the probation officer addressing probationary conditions and current status, if the petitioner is currently on probation.
  - (b) Revocations, suspensions, or other disciplinary actions against any professional credential held by the petitioner during the time period since the credential was suspended, limited, or revoked;
    - [1] If any disciplinary action was taken against the petitioner's credential by another state, submit an official copy of the disciplinary action, including charges and disposition; and
  - (c) Disciplinary charges pending against any professional credential held by the petitioner;
  - (6) Any continuing competency activities.
- 2. The reinstatement fee of \$75.
- 3. Attestation by the petitioner, if the credential was revoked or suspended:
  - a. That s/he has not practiced in Nebraska since s/he last held an active credential; or
  - b. To the actual number of days practiced if the petitioner has practiced in Nebraska since s/he last held an active credential.
    - (1) If a petitioner has practiced after his/her credential was revoked the Department may assess an Administrative Penalty pursuant to 172 NAC 67-014 in which case a separate notice and opportunity for hearing will be sent to the petitioner.
    - (2) If a petitioner has practiced after his/her credential was revoked, or has committed any other violation of the statutes and regulations governing the credential, other action may be taken pursuant to 172 NAC 67-010.10F below.

67-010.10A The Board will make a recommendation to the Director regarding reinstatement following disciplinary action. In determining whether reinstatement should be recommended, the Board may:

1. Request the Department investigate all activities of the petitioner since the disciplinary action was taken against him/her, including activities prohibited by Neb. Rev. Stat. §§71-147 and 71-148;
2. Require the petitioner to submit to a complete diagnostic examination by one or more physicians appointed by the Board, the petitioner being free also to consult a physician or physicians of his/her own choice for a complete diagnostic examination and make available a report or reports thereof to the

Board;

3. Require the petitioner to pass a written, oral, or practical examination or any combination of such examinations; or
4. Require the petitioner to complete additional education.

67-010.10B The petition to recommend reinstatement will be considered at the next meeting of the Board that is held, but not earlier than 30 days after the petition is filed.

67-010.10C Any petition to recommend reinstatement of a credential will be conclusively acted upon by the Board within 180 days after the filing of a properly prepared petition and the necessary accompanying documents with the Board.

67-010.10D If the Board recommends reinstatement of the credential, no public hearing need be held on the petition.

67-010.10E Prior to any recommendation by the Board against reinstatement of the credential, an opportunity for a formal public hearing on the petition will be granted by the Board if formally requested by the petitioner.

67-010.10E1 The petitioner's request for a formal hearing must be submitted within 30 days of the Board's notification of an opportunity for a formal public hearing.

67-010.10E2 If the petitioner had a hearing or an opportunity for a hearing on a prior petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04 within a period of two years immediately preceding the filing of such petition, the Board may grant or deny, without a hearing, any petition to recommend reinstatement filed pursuant to Neb. Rev. Stat. § 71-161.04.

67-010.10F If the petitioner formally requests a formal public hearing or if the Board otherwise holds such a hearing, the petitioner will be given at least 30 days prior notice by sending to the petitioner a copy of the notice of hearing by certified or registered mail at his/her last known residence or business post office address as shown by the files or records of the Department or as otherwise known. Notice may be given to the petitioner by personal service. The hearing will be conducted pursuant to 172 NAC 1.

67-010.10G The Board reviews the petition to recommend reinstatement, any examination or investigatory information and the record of hearing, if one was held. The Board will submit its recommendation to the Director within 180 days of receipt of the petition to recommend reinstatement.

67-010.10G1 If the Board recommends reinstatement of the credential:

1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for

reinstatement with the Director.

2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
  - a. The application must include:
    - (1) Name of the petitioner; and
    - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
  - a. The application;
  - b. The written recommendation of the Board, including any finding of fact or order of the Board;
  - c. The petition submitted to the Board;
  - d. The record of hearing, if any;
  - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse, or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.
  - a. When the Director affirms, modifies, or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;
  - b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

67-010.10G2 If the Board recommends reinstatement of the credential with terms, conditions, or restrictions:



1. The Board will send its recommendation to the petitioner by certified mail along with notification that the petitioner must file an application for reinstatement with the Director.
2. The petitioner must submit, to the Department, an application for reinstatement by the Director within 30 days of receipt of the Board's recommendation.
  - a. The application must include:
    - (1) Name of the petitioner; and
    - (2) Signed statement that the petitioner requests the Director to issue the credential in accordance with the Board's recommendation for reinstatement.
3. Upon receipt of the application for reinstatement from the petitioner, the Department will submit the following to the Director:
  - a. The application;
  - b. The written recommendation of the Board, including any finding of fact or order of the Board;
  - c. The petition submitted to the Board;
  - d. The record of hearing, if any;
  - e. Any pleadings, motions, requests, preliminary or intermediate rulings and orders, and similar correspondence to or from the Board and the petitioner.
4. The Director will issue a decision regarding reinstatement within 150 days of receipt of the petitioner's application for reinstatement. The Director's decision will be based upon a review of the record of the proceedings before the Board. The Director will not hold a second hearing. The Director may affirm, reverse, or modify the Board's recommendation. A decision by the Director to reverse or modify the Board's recommendation will be based on finding that the Board's recommendation is: in excess of statutory authority, made upon unlawful procedure, unsupported by competent, material, and substantial evidence in view of the entire record, or arbitrary or capricious.
  - a. When the Director affirms, modifies, or reverses the Board's recommendation for reinstatement, the Director will enter an Order setting forth the decision regarding reinstatement of the petitioner's credential. The order will be sent by certified mail to the petitioner;
  - b. If the petitioner does not accept the Director's decision, s/he may appeal such decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

67-010.10G3 If the Board denies reinstatement, the Board will send to the petitioner a written notice of the Board's recommendation to deny reinstatement. The petitioner may appeal the Board's decision to the District Court of Lancaster County pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920.

67-010.11 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for an Indefinite Period of Time.

67-010.11A Credentials voluntarily surrendered or limited for an indefinite period of time pursuant to Neb. Rev. Stat. §71-161.11 may be restored at the discretion of the Department.

67-010.11A1 An applicant for restoration of a credential that was voluntarily surrendered or limited for an indefinite period of time must submit to the Department:

1. A written application which contains the following information about the applicant:
  - a. Name;
  - b. Address;
  - c. Social security number; and
  - d. If the applicant holds a professional credential in another state, a list of the state(s) and type of credential;
  - e. A statement describing all:
    - (1) Felony or misdemeanor convictions during the time period since the credential was active;
      - (a) If the applicant has been convicted of a felony or misdemeanor, provide copies of:
        - [1] Official Court Record, which includes charges and disposition;
        - [2] Arrest records;
        - [3] A letter from the applicant explaining the nature of the conviction;
        - [4] All addiction/mental health evaluations and proof of treatment, if the conviction involved a drug and/or alcohol related offense and if treatment was obtained and/or required; and
        - [5] A letter from the probation officer addressing probationary conditions and current status, if the applicant is currently on probation.
    - (2) Revocations, suspensions, or other disciplinary actions against any professional credential held by the applicant during the time period since the credential was active;
      - (a) If any disciplinary action was taken against the applicant's credential by another state, submit an official copy of the disciplinary action, including

- charges and disposition; and
- (3) Disciplinary charges pending against any professional credential held by the applicant.
- f. Any continuing competency activities.
- g. Attest:
  - (1) That s/he has not practiced in Nebraska prior to the voluntary surrender of his/her credential; or
  - (2) To the actual number of days practiced if the applicant has practiced in Nebraska prior to the voluntary surrender of his/her credential.

67-010.11A2 If an applicant has practiced while his/her credential was voluntarily surrendered, the Department may:

1. Assess an Administrative Penalty pursuant to 172 NAC 67-014;
2. Initiate disciplinary action against the credential;
3. Deny the request to restore the credential; or
4. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

67-010.11A3 If an applicant has committed any other violation of the statutes and regulations governing the credential while his/her credential was voluntarily surrendered or limited, the Department may:

1. Initiate disciplinary action against the credential;
2. Deny the request for restoration of the credential; or
3. Restore the credential to active status and impose limitation(s) or other sanctions on the credential.

67-010.11A4 In either event pursuant to 172 NAC 67-010.11A2 or 67-010.11A3, a notice and the opportunity for hearing will be given to the applicant.

67-010.11A5 The Department will act within 150 days on all completed applications.

67-010.12 Procedures for Restoration of Credentials Voluntarily Surrendered or Limited for a Specific and Definite Period of Time

67-010.12A Credentials voluntarily surrendered or limited for a specific and definite period of time as agreed to between the holder and Department pursuant to Neb. Rev. Stat. § 71-161.11 will be automatically restored at the expiration of that period of time.

67-010.12B If an individual has practiced while his/her credential was voluntarily surrendered for a specific and definite period of time, the Department may assess an Administrative Penalty pursuant to 172 NAC 67-014.

67-010.13 Credentials Voluntarily Surrendered or Limited Permanently: Credentials that are voluntarily surrendered or limited permanently pursuant to Neb. Rev. Stat. § 71-161.11 will not

Effective Date  
01/19/2005

NEBRASKA HEALTH AND HUMAN SERVICES  
REGULATION AND LICENSURE

172 NAC 67

be restored.

67-011 GROUND ON WHICH THE DEPARTMENT MAY DENY, REFUSE RENEWAL OF, OR DISCIPLINE A LICENSE

67-011.01 The Department will deny an application for a license when the applicant fails to meet the requirements for licensure pursuant to 172 NAC 67-003 or is found to be in violation of any of the provisions of 172 NAC 67-011.03.

67-011.02 The Department will refuse renewal of a license if the licensee fails to meet the requirements pursuant to 172 NAC 67-007.

67-011.03 The Department may deny, refuse renewal of, revoke, limit, suspend, or take other disciplinary measures against a license or an application for a license to practice funeral directing and embalming pursuant to Neb. Rev. Stat. § 71-155 if the applicant or licensee is found guilty of any of the acts or offenses specified in Neb. Rev. Stat. § 71-147 and 71-148 and any of the following grounds:

1. Fraud, forgery, or misrepresentation of material facts in procuring or attempting to procure a license, certificate, or registration;
2. Grossly immoral or dishonorable conduct evidencing unfitness or lack of proficiency sufficient to meet the standards required for practice of the profession in this state;
3. Habitual intoxication or dependence or failure to comply with a treatment program or an aftercare program entered into under the Licensee Assistance Program established pursuant to Neb. Rev. Stat. § 71-172.01.
4. Conviction of a misdemeanor or felony under state law, federal law, or the law of another jurisdiction and which, if committed within this state, would have constituted a misdemeanor or felony under state law and which has a rational connection with the applicant's, licensee's, certificate holder's, or registrant's fitness or capacity to practice the profession;
5. Practice of the profession
  - a. fraudulently,
  - b. beyond its authorized scope,
  - c. with manifest incapacity,
  - d. with gross incompetence or gross negligence, or
  - e. in a pattern of negligent conduct. Pattern of negligent conduct means a continued course of negligent conduct in performing the duties of the profession;
6. Practice of the profession while the ability to practice is impaired by alcohol, controlled substances, narcotic drugs, physical disability, mental disability, or emotional disability;
7. Physical or mental incapacity to practice the profession as evidenced by a legal

adjudication or a determination thereof by other lawful means;

8. Permitting, aiding, or abetting the practice of a profession or the performance of activities requiring a license, certificate, or registration by a person not licensed, certified, or registered to do so;
9. Having had his/her license, certificate, or registration denied, refused renewal, limited, suspended, or revoked or having had such license, certificate, or registration disciplined in any other manner in accordance with Neb. Rev. Stat. § 71-155 by another state or jurisdiction to practice the particular profession involved, based upon acts by the applicant, licensee, certificate holder, or registrant similar to acts described in this section. A certified copy of the record of denial, refusal of renewal, limitation, suspension, or revocation of a license, certificate, or registration or the taking of other disciplinary measures against it by another state or jurisdiction is conclusive evidence;
10. Unprofessional conduct, which term includes all acts specified in Neb. Rev. Stat. § 71-148;
11. Use of untruthful or improbable statements or flamboyant, exaggerated, or extravagant claims, concerning such licensee's, certificate holder's, or registrant's professional excellence or abilities, in advertisements;
12. Conviction of fraudulent or misleading advertising or conviction of a violation of the Uniform Deceptive Trade Practices Act;
13. Distribution of intoxicating liquors, controlled substances, or drugs for any other than lawful purposes;
14. Willful or repeated violations of the Uniform Licensing Law or the rules and regulations of the Department relating to the licensee's, certificate holder's, or registrant's profession, sanitation, quarantine, or school inspection;
15. Unlawful invasion of the field of practice of any profession mentioned in the Uniform Licensing Law which the licensee, certificate holder, or registrant is not licensed, certified, or registered to practice;
16. Failure to comply with Neb. Rev. Stat. §§ 71-604, 71-605, and 71-606 relating to the signing of birth and death certificates;
17. Violation of the Uniform Controlled Substances Act or any rules and regulations adopted pursuant to the act;
18. Failure to file a report required by Neb. Rev. Stat. § 71-168.

67-011.04 The Department may deny, refuse renewal of, revoke, limit, suspend, or take other disciplinary measures against a license or an application for a license to practice funeral directing and embalming pursuant to Neb. Rev. Stat. § 71-155 if the applicant or licensee is found guilty of any of the following acts or offenses:

1. Solicitation of dead human bodies by the licensee or his/her agents, assistants, or employees, either prior to or following death;
2. The purchasing of funeral or embalming engagements or the payment of a commission either directly or indirectly or offer of payment of such commission to any agent, assistant, or employee for the purpose of securing business;
3. Using indecent, profane, or obscene language in the presence of a dead human body or within the immediate presence or hearing of the family, relatives, or friends of the deceased prior to the burial of the deceased;
4. Soliciting or accepting any remuneration, commission, bonus, or rebate in consideration of the recommending or causing a dead human body to be placed in any crematory, mausoleum, or cemetery;
5. Using any casket or part thereof which has previously been used as a receptacle for, or in connection with, the shipment, burial, or other disposition of a dead human body without first identifying such item as used;
6. Violations of any state law, municipal ordinance, or rule or regulation of the Department or other body having regulatory powers, relating to the handling, custody, care, or transportation of dead human bodies;
7. Refusal to surrender promptly the custody of a dead human body upon request of a person or persons lawfully entitled to the custody thereof; or
8. Taking undue advantage of a patron or patrons, or being found guilty of fraud, or misrepresentation in the selling of merchandise or service to patrons.

67-011.04A An applicant or a licensee will be subject to the penalty provisions of 172 NAC 67-011.04 if found guilty of any of the following:

1. Paying, directly or indirectly, any money or other thing of value as a commission or gratuity for the securing of business;
2. The buying of a business of any person, firm, or corporation, or the paying of a commission to any person, firm, or corporation or to any hospital or any institution where death occurs or to any hospital superintendent, nurse, intern, or other employee, whether directly or indirectly; or

3. Willful malpractice.

Any Funeral Director and Embalmer who commits any of the acts or things prohibited by this section or otherwise violates any of the provisions thereof shall be guilty of a Class II misdemeanor.

67-011.04B These regulations do not prohibit a licensed Funeral Director and Embalmer from engaging in sales of funeral goods or services pursuant to the Burial Pre-Need Sale Act.

67-011.04C A license, certificate, or registration to practice a profession may also be refused renewal or revoked when the licensee, certificate holder, or registrant is guilty of practicing such profession while his/her license, certificate, or registration to do so is suspended or is guilty of practicing such profession in contravention of any limitation placed upon his or her license, certificate, or registration.

67-011.04D Except in cases of failure to pay the required fees, no license will be denied, suspended, limited, refused renewal, or revoked except after due notice and opportunity for a hearing. Disciplinary actions and proceedings will be conducted as specified in the Uniform Licensing Law. Any denial, suspension, limitation, refusal of renewal, or revocation of such license may be appealed, and the appeal will be in accordance with the Administrative Procedure Act. A person whose license has been revoked, suspended, or limited may petition the Board for reinstatement in the manner provided by Neb. Rev. Stat. §§ 71-161.04 to 71-161.06.

67-012 UNPROFESSIONAL CONDUCT

67-012.01 For purposes of Neb. Rev. Stat. § 71-147, unprofessional conduct means any departure from or failure to conform to the standards of acceptable and prevailing practice of a profession or occupation or the ethics of the profession or occupation, regardless of whether a person, patient, or entity is injured, or conduct that is likely to deceive or defraud the public or is detrimental to the public interest.

67-012.02 Nothing in this section will be construed to exclude determination of additional conduct that is unprofessional by adjudication in individual contested cases.

67-013 SCHEDULE OF FEES: The following fees have been set by the Department:

67-013.01 Initial License Fee: By an applicant for a license to practice funeral directing and embalming, the fee of \$25 and the Licensee Assistance Program fee of \$1 for each year remaining during the current biennial renewal.

67-013.02 Pro-rated Initial License Fee: For issuance of a license that will expire within 180 days after its initial issuance date, a fee of \$25 and the Licensee Assistance Program fee of \$1.



67-013.03 Apprentice Registration Fee: By an applicant for a registration to practice as an apprentice, the fee of \$10.

67-013.04 License Renewal Fee: By an applicant for renewal on a basis of a license to practice:

1. Funeral Directing and Embalming, the fee of \$25 and the Licensee Assistance Program fee of \$2.
2. Funeral Directing, the fee of \$15 and the Licensee Assistance Program fee of \$2.
3. Embalming, the fee of \$15 and the Licensee Assistance Program fee of \$2.

67-013.05 Inactive License Status Fee: By an applicant to have his/her license placed on inactive status, the fee of \$25.

67-013.06 Renewal Late Fee: By an applicant for renewal on a biennial basis of a license, who fails to pay the renewal fee on or before the expiration date of his/her license, the fee of \$25 as a late fee in addition to the renewal fee.

67-013.07 Certification of License/Registration Fee: For issuance of a certification of a license or registration, the fee of \$25. The certification includes information regarding:

1. The basis on which a license or registration was issued;
2. The date of issuance;
3. Whether disciplinary action has been taken against the license or registration;  
and
4. The current status of the credential.

67-013.08 Verification of License/Registration Fee: For issuance of a verification of a license or registration, the fee of \$5. The verification includes written confirmation as to whether a license or registration was valid at the time the request was made.

67-013.09 Duplicate License Fee: For a duplicate of original license document or reissued license, the fee of \$10.

67-013.10 Administrative Fee: For a denied license or registration or a withdrawn application, the administrative fee of \$25 will be retained by the Department, except if the licensing or registration fee is less than \$25, the fee will be forfeited and an examination fee will not be returned.

67-013.11 Reinstatement Late Fee: For reinstatement of a license for failure to meet renewal requirements:

1. Within one year, the fee of \$35 in addition to the renewal fee.
2. After one year of revocation, the fee of \$75 in addition to the renewal fee.

Effective Date  
01/19/2005

NEBRASKA HEALTH AND HUMAN SERVICES  
REGULATION AND LICENSURE

172 NAC 67

77-013.12 Reinstatement Fee: For reinstatement following suspension, limitation or revocation for disciplinary reasons, the fee of \$75.

67-014 ADMINISTRATIVE PENALTY: The Department may assess an administrative penalty when evidence exists that a person or entity practiced without a credential. Practice without a credential for the purpose of this regulation means practice:

1. Prior to the issuance of a credential;
2. Following the expiration of a credential; or
3. Prior to the reinstatement of a credential.

67-014.01 Evidence of Practice: The Department will consider any of the following conditions as prima facie evidence of practice without a credential:

1. The person admits to engaging in practice;
2. Staffing records or other reports from the employer of the person indicate that the person was engaged in practice;
3. Billing or payment records document the provision of service, care, or treatment by the person;
4. Service, care, treatment records document the provision of service, care, or treatment by the person;
5. Appointment records indicate that the person was engaged in practice; and
6. The person opens a business or practice site and announces or advertises that the business or site is open to provide service, care, or treatment.

For purposes of this regulation prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

67-014.02 Penalty: The Department may assess an administrative penalty in the amount of \$10 per day, not to exceed a total of \$1,000 for practice without a credential. To assess such penalty, the Department will:

1. Provide written notice of the assessment to the person. The notice must specify:
  - a. The total amount of the administrative penalty;
  - b. The evidence on which the administrative penalty is based;
  - c. That the person may request, in writing, a hearing to contest the assessment of an administrative penalty;
  - d. That the Department will within 30 days following receipt of payment of the administrative penalty transmit the penalty to the State Treasurer for credit to the Permanent School Fund; and
  - e. That an unpaid administrative penalty constitutes a debt to the State of Nebraska which may be collected in the manner of a lien foreclosure or sued for and recovered in a proper form of action in the name of the state in the District Court of the county in which the violator resides or owns property.
2. Send by certified mail, a written notice of the administrative penalty to the last known address of the person to whom the penalty is assessed.

Effective Date  
01/19/2005

NEBRASKA HEALTH AND HUMAN SERVICES  
REGULATION AND LICENSURE

172 NAC 67

67-014.03 Administrative Hearing: When a person contests the administrative penalty and requests a hearing, the Department will hold a hearing pursuant to Neb. Rev. Stat. §§ 84-901 to 84-920 and 184 NAC 1, Rules of Practice and Procedure.

Approved by the Attorney General:	December 13, 2004
Approved by the Governor:	January 13, 2005
Filed with the Secretary of State:	January 14, 2005

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